

Department of Energy

§ 850.5

DOE facility means any facility operated by or for DOE.

Head of DOE Field Element means an individual who is the manager or head of the DOE operations office or field office, or any official to whom the Head of DOE Field Element delegates his or her functions under this part.

High-efficiency particulate air (HEPA) filter means a filter capable of trapping and retaining at least 99.97 percent of 0.3 micrometer monodispersed particles.

Immune response refers to the series of cellular events by which the immune system reacts to challenge by an antigen.

Medical removal protection benefits means the employment rights established by section 850.35 of this part for beryllium-associated workers who voluntarily accept temporary or permanent medical removal from beryllium areas following a recommendation by the Site Occupational Medicine Director.

Operational area means an area where workers are routinely in the presence of beryllium as part of their work activity.

Regulated area means an area demarcated by the responsible employer in which the airborne concentration of beryllium exceeds, or can reasonably be expected to exceed, the action level.

Removable contamination means beryllium contamination that can be removed from surfaces by nondestructive means, such as casual contact, wiping, brushing or washing.

Responsible employer means:

(1) For DOE contractor employees, the DOE contractor office that is directly responsible for the safety and health of DOE contractor employees while performing a beryllium activity or other activity at a DOE facility; or

(2) For DOE employees, the DOE office that is directly responsible for the safety and health of DOE Federal employees while performing a beryllium activity or other activity at a DOE facility; and

(3) Any person acting directly or indirectly for such office with respect to terms and conditions of employment of beryllium-associated workers.

Site Occupational Medical Director (SOMD) means the physician respon-

sible for the overall direction and operation of the site occupational medicine program.

Unique identifier means the part of a paired set of labels, used in records that contain confidential information, that does not identify individuals except by using the matching label.

Worker means a person who performs work for or on behalf of DOE, including a DOE employee, an independent contractor, a DOE contractor or subcontractor employee, or any other person who performs work at a DOE facility.

Worker exposure means the exposure of a worker to airborne beryllium that would occur if the worker were not using respiratory protective equipment.

(b) Terms undefined in this part that are defined in the Atomic Energy Act of 1954 shall have the same meaning as under that Act.

§ 850.4 Enforcement.

DOE may take appropriate steps under its contracts with DOE contractors to ensure compliance with this part. These steps include, but are not limited to, contract termination or reduction in fee.

§ 850.5 Dispute resolution.

(a) Subject to paragraphs (b) and (c) of this section, any worker who is adversely affected by an action taken, or failure to act, under this part may petition the Office of Hearings and Appeals for relief in accordance with 10 CFR part 1003, Subpart G.

(b) The Office of Hearings and Appeals may not accept a petition from a worker unless the worker requested the responsible employer to correct the violation, and the responsible employer refused or failed to take corrective action within a reasonable time.

(c) If the dispute relates to a term or condition of employment that is covered by a grievance-arbitration provision in a collective bargaining agreement, the worker must exhaust all applicable grievance-arbitration procedures before filing a petition for relief with the Office of Hearings and Appeals. A worker is deemed to have exhausted all applicable grievance-arbitration procedures if 150 days have passed since the filing of a grievance